

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 14464, of Wire Properties, Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Sub-section 3105.3) to use the basement of the subject premises as a variety store in an R-5-B District at premises 1122 - 21st Street, N.E., (Square 4469, Lot 846).

HEARING DATE: July 23, 1986

DECISION DATES: September 3, 1986 and October 1, 1986

FINDINGS OF FACT:

1. The premises known as 1122 - 21st Street, N.E., is located on the west side of 21st Street, one property removed from the southwest intersection of 21st and M Streets, N.E. The site is located in an R-5-B District.

2. This trapezoidal shaped site consists of 22,995 square feet of land area. The site is improved with three, three-story, brick apartment houses, the eastern most of which also contains a small basement.

3. The apartment building is an integral part of the Carver Terrace Apartment complex. This complex covers approximately a three block, six square area with approximate boundaries of M Street, N.E. on the north; H Street, N.E. on the south; Anacostia Park and District owned property consisting of the Phelps Vocational School, High M. Brown, Jr. High School, Charles Young School and Spingarn Sr. High School on the east; and 19th Street, N.E. on the west. Beyond the complex to the north, the area is characterized by residential row dwellings. Most of these dwellings are contained in an R-4 District commencing at approximately 19th and L Streets, N.E. Beyond the Carver Terrace complex to the south is the Langston Terrace apartments which terminate at Benning Road. Benning Road is zoned C-2-A between approximately 18th and 26th Streets, N.E.

4. The basement is comprised of a living room, dining room, kitchen and two bedrooms. The living and dining room area is partitioned off from the kitchen and bedrooms. The living and dining room area had been used until four months ago as a variety store. It was closed since it had no certificate of occupancy. Since that time it has been used for storage. The store has an approximate area of 225 square feet. Entrance to the basement is through an

unobstrusive outside door on the ground level. There is a separate entrance door on an upper level for the residents residing on the upper floors of the complex.

5. The applicant proposes to reopen the variety store. It would sell only prepackaged items. The hours of operation would be from 7:00 A.M. to 8:00 P.M., Monday through Saturday. There would be three employees comprising the lessee, his wife and one other.

6. Deliveries would occur between 7:00 A.M. and 12:00 P.M. It is anticipated that there would be five deliveries a day. Deliveries would be by van which would be parked on the street. The lessee would personally handle some deliveries.

7. The premises would be cleaned daily. Trash would be hauled away through a private contractor.

8. It is anticipated that the customers would basically be the residents of the apartment complex. Approximately 54 percent of the residents are elderly. The income level is low to moderate.

9. There is a lack of neighborhood convenience stores in the immediate vicinity. There is a one half mile distance to the nearest commercial district most of which would be an uphill walk on the return trip.

10. The basement has been difficult to rent because of its dampness and coldness. The witnesses couldn't recall when it was last rented for any appreciable time as a residence.

11. The Office of Planning (OP), by report dated July 22, 1986, recommended approval of the application subject to certain conditions as hours of operation and no outside signs. The OP was of the opinion that the combination of all factors including the income level of the complex, the percentage of elderly, the lack of convenience stores and the proposal's similarity to a commercial adjunct to an apartment building permitted through a special exception created an extraordinary circumstance resulting in a hardship upon the owner of the property. The Board concurs in the recommendation of the OP.

12. Advisory Neighborhood Commission (ANC) 5B by report dated July 13, 1986, recommended approval of the application. The ANC reported that an examination of the record disclosed the applicant Wire Properties, Inc. to be one of the providers of significant social and economic change for the Carver Terrace residents, particularly senior citizens. Also, approximately 54 percent of the residents within the Carver Terrace boundaries are senior citizens. It was ANC - 5B's opinion that due to this large number of senior citizens as well as handicap individuals, the variety store would

provide badly needed service that would create a positive impact on the community as a whole. Because of a very steep incline on Maryland Avenue, N.E. it is almost impossible for both handicap and senior citizens to shop at the Hechinger Mall Safeway on a continuous basis, particularly for items such as bread, milk, etc. Because of the great need for the variety store in this community, ANC - 5B requested the Board of Zoning Adjustment of the District of Columbia to grant the variance. The Board concurs.

13. The Carver Terrace Tenants and Civic Association, Inc. by letter dated May 14, 1986, reported that it was in full support of this entity in our community. The lessee has been a true asset to this association and to the surrounding area, especially the youth whom they always support financially and morally in any venture that the kids may try to take on. The Association further reported that it would be in the best interest of this community to have Duren's Variety here in their neighborhood.

14. A petition with approximately 125 signatures in favor of the application was filed in the record.

15. There was no opposition to the application.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a use variance, the granting of which requires a showing through substantial evidence of a hardship upon the owner arising out of some unique or exceptional condition in the property so that the property cannot reasonably be used for the purpose for which it is zoned. The Board must further find that the relief requested can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Maps.

The Board concludes that the applicant has met the burden of proof. The basement has a long history of not being used for residential purposes because of its dampness, its separation from the main structure via entrance way and it's below grade location. It is not a desirable unit. The Board further concludes that because of the combination of factors enumerated in Finding Nos. 8 and 9, the proposed use would be a reasonable use of the property. The Board notes the support of the ANC, the Carver Tenants and Civic Association, Inc. and the petition of the neighbors.

The Board concludes that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of

the Zoning Regulations. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

1. The hours of operation shall not exceed from 9:00 A.M. to 9:00 P.M.
2. There shall be no signs advertising the use of the subject premises.

VOTE: 3-0 (Charles R. Norris, Carrie L. Thornhill and Paula L. Jewell to grant; William F. McIntosh abstained).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


EDWARD L. CURRY
Acting Executive Director

FINAL DATE OF ORDER: OCT 17 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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